

1 MR. HILDING: I'm, I'm familiar. I believe that's
2 the one that I, I've -- that I raised an issue in with respect
3 to the, the inaction, and I have -- again, I, I need to make
4 sure I clarify this. My in-- intent of, of making this motion
5 to enlarge issues was not for any cause of disruption of the
6 hearing. I feel it's something I have to do and because of
7 the, the potential public benefits -- you've read my
8 responses, I'm sure.

9 JUDGE SIPPEL: Yeah, I have read it very carefully,
10 and as I was saying, I think the best, the best I can do for
11 you is rule on these issues on your request for the issue. I

1 | this case trial level, all right? The issues -- my, my
2 | refusal to add the issues will go along with the case because
3 | I will rule on them in a separate order and they will always
4 | stay with the case as long as you're going up on appeal. All
5 | right?

6 | MR. HILDING: May I make one statement just for the
7 | record here in this conference?

8 | JUDGE SIPPEL: You may --

9 | MR. HILDING: Oh, thank you.

10 | JUDGE SIPPEL: -- if it's a brief --

11 | MR. HILDING: I'll make it brief. I just wanted to
12 | make a statement for the record. I have -- and, please,
13 | understand, everybody involved here, nothing personal against
14 | Mrs. Hughes. Personally, I do not feel I am a prejudiced
15 | person and I am not a chauvinist. It's just that my continued
16 | quest to, to seek what I believe is, is, is right, fair, and
17 | just, is why I, I made the motion that I did and why I will,
18 | will continue, however appropriately, to, to pursue this, this
19 | issue, because I do not believe that I am being treated
20 | fairly, and I thank you for that, that ability --

21 | JUDGE SIPPEL: Well, you -- let me just ask you a
22 | question about that. In what context do you feel you're not
23 | treated fairly? By the context of my rulings in this case?

24 | MR. HILDING: No, I'm sorry, Your Honor. Let me
25 | clarify that. No, by the, the policies of the, of the FCC

1 with regard to minority preference.

2 JUDGE SIPPEL: All right, over which you understand
3 I have no jurisdiction.

4 MR. HILDING: Correct.

5 JUDGE SIPPEL: All right.

6 MR. HILDING: Correct.

7 JUDGE SIPPEL: Mr. Casciato, do you want to briefly
8 respond to that?

9 MR. CASCIATO: No, only insofar as, as that I, I
10 would hope that from, from going forward, that we will not be
11 seeing any more material with regard to the material that was
12 contained in the petition to enlarge and the matters that were
13 stricken from the integration statement in the context of the
14 litigation of this case, absent some change of law, because I
15 really think that, however there may be a point to make to
16 carry up on appeal, they're not the subject of this
17 proceeding. They're more appropriately addressed in
18 rule-making and, in fact, the minority consideration is
19 completely gone in light of the Supreme Court ruling and, in
20 fact, even Mr. Hilding has made some sort of claim that he's
21 being prejudiced because my client is entitled to a female
22 preference, which at this stage of the law she is not. So I
23 would, I would really like to hold that from now on, we're
24 going to litigate this under the comparative policy statement
25 and we don't have to hear any more speeches, rightly or

1 | wrongly, about who is been unfairly disadvantaged by this
2 | Commission.

3 | JUDGE SIPPEL: I, I see Mr. Hilding nodding his
4 | acknowledgement to that.

5 | MR. HILDING: I will do my best and if something
6 | slips and if something slips, I apologize in advance that
7 | you --

8 | JUDGE SIPPEL: Oh, we'll let you know.

9 | MR. HILDING: Okay, thank you.

10 | JUDGE SIPPEL: The -- and, and, and I, I --
11 | Mr. Casciato does make a good point. I want you to understand
12 | that in my adjudication of this case, unless the law changes
13 | between now and the time I issue an initial decision,
14 | Mrs. Hughes will not get any credit at all for being a female
15 | applicant.

16 | MR. HILDING: I understand and the reason that it
17 | was put in there was simply to cover the bases in case
18 | something slipped back.

19 | JUDGE SIPPEL: Well, I, I, I'm just telling you so
20 | that you totally understand where I'm coming from --

21 | MR. HILDING: Okay, okay.

22 | JUDGE SIPPEL: -- and I think that it was
23 | appropriate for me to tell you that.

24 | MR. HILDING: Yes, thank you, Your Honor.

25 | JUDGE SIPPEL: All right, then, I have -- that, that

1 concludes my agenda. I want to say -- I mean, I'll, I'll
2 listen to anything else that anybody else, that any of the
3 parties, want to raise at this part about any of these
4 matters, anything about the scheduling or the discovery in
5 this case, or settlement; but I want to do say -- I wanted to
6 say one thing, and that is that there was this discussion
7 informally before you all came to the conference this morning
8 about trying to do this by telephone, and I think that what
9 we've gone through this morning demonstrates categoric to, to
10 me without any question, that this could never have been
11 handled accurately on the telephone.

12 MR. HILDING: I agree.

13 JUDGE SIPPEL: We had documents going back and
14 forth; we had dates, and references, and issues, particularly
15 on issues that you were properly raising, Mr. Hilding, but the
16 nature of this kind of a situation is you have to have the
17 parties here.

18 MR. HILDING: I understand.

19 JUDGE SIPPEL: All right, now, in the future, if
20 there is something that I can accommodate with a conference
21 phone call, by all means do it. What you have to do is you
22 have to do -- you have to think in terms of two things. First
23 of all, I need to be called in advance or my, my, my legal
24 technician has to be told in advance that you want to talk to
25 me on a conference call, and tell me what time, or tell her

1 what time, you'll be placing the call so that I can be sure
2 that I'm be here in my office, all right? And secondly, you
3 have to think in terms of patching in your own counsel. Now,
4 I -- the last time that this situation came up, I contacted
5 Mr. Goldstein and I told him what was happening, and he agreed
6 that there was no need for him to participate. So I think if
7 we're just staying with the straight comparative issue, and
8 its -- we're not going to get into anything that normally
9 involves the Bureau, that we can do that without his
10 involvement, and I would also do it off the record. I mean,
11 in other words, I'm not going to have a reporter. What I'm
12 talking about is, is trying to facilitate anything that's
13 logistically holding up the case. If somebody doesn't think a
14 document was looked at carefully and it was looked for
15 carefully enough, or there's some disagreement about a date
16 for a deposition or something, you know, call me, but call me
17 together. Don't call me independently.

18 MR. HILDING: I understand.

19 JUDGE SIPPEL: But primarily to you, Mr. Hilding,
20 because you have done that on occasion, and it wasn't anything
21 improper but it makes it very, very difficult because I have
22 to end up, then, calling Mr. Casciato --

23 MR. HILDING: I understand.

24 JUDGE SIPPEL: -- and then trying to patch the two
25 sides together. The only way to really do that is a

1 conference call. I do not have conference call capability so
2 you're going to have to agree among yourselves as to who's
3 going to bear the burden, the price, and everything of
4 initiating the call. But I am here to work with you and I
5 want you to understand.

6 MR. HILDING: Understand.

7 JUDGE SIPPEL: Okay, having said that, is there
8 anything else that anybody else wants to cover this morning?

9 MR. CASCIATO: Your Honor, the only thing I, I think
10 you didn't mention is the date certain on the motion to compel
11 was for the integration statements.

12 JUDGE SIPPEL: Oh.

13 MR. CASCIATO: Are you going to put that in your
14 order or are you -- will you be giving us a date on this?

15 JUDGE SIPPEL: I, I can do that today. I can do --
16 let's go off the record for just a minute.

17 (Whereupon, a brief recess was taken.)

18 JUDGE SIPPEL: -- the record. In an
19 off-the-record -- we just reviewed the dates in an
20 off-the-record session here, a brief off-the-record session,
21 and I will repeat what I already said on the record, but I'm
22 going to repeat it here in one context. The parties are going
23 to have 20 days to submit affidavits on the proof of
24 publication; 10 days to submit copies to me of the minutes
25 that are in the possession of Mr. Hilding and the minutes that

1 are in the possession of Mr. Casciato with respect to the,
2 the, the Coyote Communications matter. There will be a, also,
3 a joint report on settlement possibilities submitted to

1 by the 18th of June, that is, he will produce to Mr. Casciato
2 and Mr. Casciato's offices by the 18th of June copies of those
3 documents, no later than 4 p.m. West Coast time. With respect
4 to the documents sought by Mr. Casciato in his supplementary
5 document request having to do with petitions for rule-making
6 by Mr. Hilding and comments in rule-makings by Mr. Hilding,
7 those are limited to the period 1988 to 1993 for the time
8 being, and those will be produced to Mr. Casciato at his
9 offices at 4 p.m. -- no later than 4 p.m. West Coast time on
10 Wednesday, the 23rd of June. All of that being done in
11 anticipation of the agreed-to depositions being completed by
12 the 28th or the 29th of June, and as I've indicated to the
13 parties, I will make myself available in my office to rule on
14 anything that needs to be ruled upon. You know, it'll just
15 have to be -- again, call my office -- give my office as much
16 notice as you conceivably can as to what time that call might
17 be coming in so that I'm sure that I'm in my office. And
18 that's it. I'm going to get writ-- written orders will be
19 released -- well, they'll be issued, probably, this afternoon
20 or no later than tomorrow, and that's all I have. Again, if
21 you're going to reach me about something, either reach me in a
22 conference call or one person who's calling me says, "I have
23 talked to Mr. --" If Mr. Casciato calls me, he says, "I have
24 talked to Mr. Hilding, and here's the situation we have, and
25 here's what we want to do." Preferably, what I will probably

1 require is, I say, "Okay, you can do it but file with me a
2 motion." All right? Somehow or other get me a piece of paper
3 in, in, in a pleading form that says that this is what you're
4 asking for me to let you do and that both parties agreed to
5 it, and we'll get on -- let's see, I'll try to give you as
6 much flexibility on telephone rulings but it's going to
7 ultimately have to be pinned down with a written order.
8 That's all I have. Anything el-- anybody else has -- no?

9 MR. HILDING: Thank you for your time.

10 JUDGE SIPPEL: Mr. Hilding and Mrs. Hughes, I expect
11 that you'll use the benefits of this conference room. You're
12 welcome to stay here as long as you want today to talk about
13 settlement or whatever. but preferably settlement. That's it.

CERTIFICATE OF REPORTER, TRANSCRIBER, AND PROOFREADER

APPLICATIONS FOR ERIC R. HILDING & JUDY YEP HUGHES

Name

MM DOCKET NO. 93-95

Docket No.

WASHINGTON, D.C.

Place

JUNE 9, 1993

Date

We, the undersigned, do hereby certify that the foregoing pages, numbers 1 through 84, inclusive, are the true, accurate and complete transcript prepared from the reporting by BARBARA J. LORD in attendance at the above identified proceeding, in accordance with applicable provisions of the current Federal Communications Commission's professional verbatim reporting and transcription Statement of Work and have verified the accuracy of the transcript by (1) comparing the typewritten transcript against the reporting or recording accomplished at the proceeding and (2) comparing the